



HOUSE BILL No. 5441

March 24 1994 Introduced by Rep Nye and referred to the Committee on Judiciary

A bill to amend section 7413 of Act No 368 of the Public Acts of 1978, entitled as amended

Public health code

as amended by Act No 144 of the Public Acts of 1988, being section 333 7413 of the Michigan Compiled Laws and to add section 7413a

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Section 7413 of Act No 368 of the Public Acts
2 of 1978 as amended by Act No 144 of the Public Acts of 1988
3 being section 333 7413 of the Michigan Compiled Laws is amended
4 and section 7413a is added to read as follows

5 Sec 7413 (1) An individual who was convicted previously
6 for a violation of any of the following offenses and is
7 ~~thereafter~~ SUBSEQUENTLY convicted of a second ~~or subsequent~~
8 violation of any of the following offenses shall be imprisoned

1 for life and ~~shall~~ IS not ~~be~~ eligible for probation
 2 suspension of sentence, or parole during that mandatory term

3 (a) A violation of section 7401(2)(a)(ii) or (iii)

4 (b) A violation of section 7403(2)(a)(ii) or (iii)

5 (c) Conspiracy to commit an offense proscribed by section
 6 7401(2)(a)(ii) or (iii) or section 7403(2)(a)(ii) or (iii)

7 (2) Except as otherwise provided in ~~subsections (1) and~~
 8 ~~(3)~~ THIS SECTION an individual convicted of a second FELONY
 9 OFFENSE or A SECOND OR subsequent MISDEMEANOR offense under this
 10 article may be imprisoned for a term not more than twice the term
 11 otherwise authorized or fined an amount not more than twice that
 12 otherwise authorized or both

13 (3) An individual convicted of a second ~~or subsequent~~
 14 offense under section 7410(2) or (3) shall be punished, subject
 15 to subsection (4) by a term of imprisonment of not less than 5
 16 years ~~nor~~ more than twice that authorized under section 7410(2)
 17 or (3) and, in addition, may be punished by a fine of not more
 18 than 3 times that authorized by section 7410(2) or (3) — and
 19 ~~shall~~ IS not ~~be~~ eligible for probation or suspension of sen-
 20 tence during the term of imprisonment

21 (4) The court may depart from the minimum term of imprison-
 22 ment authorized under subsection (3) if the court finds on the
 23 record that there are substantial and compelling reasons to do
 24 so

25 (5) For purposes of subsection (2) an offense is considered
 26 a second or subsequent offense if before conviction of the
 27 offense the offender has at any time been convicted under this

1 article or under any statute of the United States or of any state
2 relating to a narcotic drug, marihuana, depressant stimulant or
3 hallucinogenic drug

4 SEC 7413A (1) IF A PERSON HAS BEEN CONVICTED OF 2 OR MORE
5 FELONIES WHETHER THE CONVICTIONS OCCURRED IN THIS STATE OR WOULD
6 HAVE BEEN FOR FELONIES IN THIS STATE IF THE CONVICTIONS OBTAINED
7 OUTSIDE THIS STATE HAD BEEN OBTAINED IN THIS STATE, AND THAT
8 PERSON IS CONVICTED OF A FELONY VIOLATION OF THIS ARTICLE, THE
9 PERSON SHALL BE PUNISHED BY IMPRISONMENT FOR LIFE WITHOUT THE
10 OPPORTUNITY FOR PAROLE A SENTENCE IMPOSED UNDER THIS SECTION
11 SHALL NOT BE SUSPENDED

12 (2) THIS SECTION DOES NOT APPLY TO A PERSON SUBJECT TO SEN-
13 TENCING UNDER SECTION 7413

14 Section 2 This amendatory act shall not take effect unless
15 all of the following bills of the 87th Legislature are enacted
16 into law

17 (a) Senate Bill No _____ or House Bill No 5439 (request
18 no 05948 94)

19 (b) Senate Bill No _____ or House Bill No 5440 (request
20 no 05948 94 a)